IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

Crl.MC.No. 1552 of 2007()

CP.21/2001 of JUDL.MAGISTRATE OF FIRST CLASS COURT, TIRUR
CRIME NO.22/97 OF THE VALANCHERY POILICE STATION

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PETITIONER: ACCUSED

AHAMMEDKUTTY @ BABUJI,
S/O.HYDRU MASTER,
PERUNGATTUTHODI HOUSE,
IRUMBILIYAM,MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS: STATE & DEFACTO COMPLAINANT

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1. THE STATE OF KERALA,
REP.BY THE CIRCLE INSPECTOR OF POLICE,
VALANCHERY-THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM,KOCHI-31.

2. GOPALAN,S/O.CHATHAN,
IRUMBILIYAM,VALANCHERY,
MALAPPURAM DISTRICT.

BY PUBLIC PROSECUTOR SRI. JIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. NO. 1552 OF 2007

Dated this the 17th day of July, 2007

ORDER

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Sec.3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Attrocities) Act. The petitioner was the 1st accused. The co-accused – accused Nos.2 and 3, stood trial. They have been found not guilty and acquitted. As the petitioner was not available at the relevant time, he did not stand trial. The case against him has been split up. The petitioner now faces the prospect of a fresh trial against him.

2. The learned counsel for the petitioner submits that the co-accused having already been acquitted, the petitioner may be given the advantage of the said judgment of acquittal. The case against the petitioner may be brought to premature termination by invoking the powers under Sec.482 of the

Cr.P.C.

3. It is by now trite – after the decision of a Full Bench in **Moosa v. Sub Inspector of Police** (2006 (1) KLT 552) that the mere fact that the co-accused have been found not guilty and acquitted in a trial held against them in the absence of an accused like the petitioner cannot confer any benefit or advantage on such absconding co-accused. It is not disputed that the nature of the allegation against the petitioner/1st accused is qualitatively different from the allegations that are raised against the co-accused. I do not, in these circumstances, find any justification in the prayer for invocation of the powers under Sec.482 of the Cr.P.C. to quash the proceedings.

4. This Crl.M.C. is, in these circumstances, dismissed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge